

Exhibit 3

House Bill 359, Version 4
(Introduced April 17, 2023)

- 2023

68th Legislature 2023

Drafter: Julianne Burkhardt, 406-444-4025

HB0359.003.002

HOUSE BILL NO. 359

INTRODUCED BY B. MITCHELL, E. BUTTREY, M. CUFFE, D. SALOMON, J. READ, T. MCGILLVRAY, K. REGIER, L. JONES, E. BUTCHER, B. KEENAN, C. GLIMM, G. HERTZ, M. LANG, D. LENZ, J. HINKLE, F. MANDEVILLE, T. MANZELLA, W. MCKAMEY, M. NOLAND, S. HINEBAUCH, S. GUNDERSON, M. REGIER, D. LOGE, R. FITZGERALD, F. ANDERSON, L. SHELDON-GALLOWAY, J. TREBAS, D. BARTEL, C. KNUDSEN, B. USHER, S. VINTON, B. BEARD, M. HOPKINS, N. DURAM, J. FULLER, R. KNUDSEN, K. BOGNER, B. GILLESPIE, J. KASSMIER, B. MERCER, T. MOORE, B. LER, B. PHALEN, F. NAVE, J. CARLSON, L. BREWSTER, K. ZOLNIKOV, A. REGIER, L. REKSTEN, P. FIELDER, S. KERNS, S. GALLOWAY, S. GIST, J. SCHILLINGER, K. SEEKINS-CROWE, M. MALONE, J. GILLETTE, C. HINKLE, M. BERTOGLIO, R. MARSHALL, C. FRIEDEL, S. ESSMANN, M. YAKAWICH, T. BROCKMAN, T. SMITH, R. MINER, G. PARRY, G. OBLANDER, N. NICOL, L. DEMING, D. EMRICH, S. VANCE, T. VERMEIRE, C. SPRUNGER, T. FALK, J. BERGSTROM, G. KMETZ, P. GREEN, J. ETCHART, B. BARKER, L. HELLEGAARD, Z. WIRTH, N. HASTINGS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MINORS FROM ATTENDING ~~DRAG- ADULT- ORIENTED~~ SHOWS; PROHIBITING MINORS FROM ENTERING ~~SEXUALLY-ORIENTED- ADULT- ORIENTED~~ BUSINESSES; PROHIBITING ~~DRAG-ADULT-ORIENTED~~ PERFORMANCES IN LIBRARIES OR SCHOOLS THAT RECEIVE STATE FUNDING; ~~PROHIBITING DRAG PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING DRAG PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING; PROHIBITING ADULT-ORIENTED PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING ADULT- ORIENTED PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING;~~ PROVIDING DEFINITIONS; ~~AND~~ AND PROVIDING PENALTIES; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 NEW SECTION. Section 1. Definitions. As used in [sections 1 through AND 2], the following
2 definitions apply:

3 (1) "Drag performance" means a ~~AN OBSCENE performance~~ in which a performer exhibits a gender
4 identity that is different than the performer's gender assigned at birth using clothing, makeup, or other physical
5 markers and sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient interest
6 THAT FEATURES DRAG QUEENS, TOPLESS DANCERS, EXOTIC DANCERS, STRIPPERS, OR MALE OR FEMALE
7 IMPERSONATORS OR SIMILAR ENTERTAINERS WHO PROVIDE ENTERTAINMENT THAT APPEALS TO A PRURIENT INTEREST IN
8 SEX, REGARDLESS OF WHETHER OR NOT PERFORMED FOR CONSIDERATION.

9 (2) "DRAG QUEEN" MEANS A MALE OR FEMALE PERFORMER WHO ADOPTS A FLAMBOYANT OR PARODIC
10 FEMININE PERSONA WITH GLAMOROUS OR EXAGGERATED COSTUMES AND MAKEUP.

11 (3) "DRAG STORY HOUR" MEANS AN EVENT HOSTED BY A DRAG QUEEN WHO READS CHILDREN'S BOOKS.

12 (4) "EXOTIC DANCER" MEANS AN INDIVIDUAL WHO DANCES OR PERFORMS IN A SEDUCTIVE OR
13 PROVOCATIVE MANNER WHILE SCANTILY DRESSED OR WHILE GRADUALLY REMOVING THEIR CLOTHES PIECE BY PIECE.

14 (5) "MINOR" MEANS AN INDIVIDUAL UNDER 18 YEARS OF AGE.

15 (1) "Adult-oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise
16 that:

17 (a) provides for an audience of two or more individuals:
18 (i) live nude entertainment or live nude performances; or
19 (ii) an adult-oriented performance; and
20 (b) authorizes on-premises consumption of alcoholic beverages.

21 (2) "Adult-oriented performance" means a performance that, regardless of whether performed for
22 consideration, is intended to appeal to a prurient interest in sex and features:

23 (a) the purposeful exposure, whether complete or partial, of:
24 (i) a human genital, the pubic region, the human buttocks, or a female breast, if the breast is
25 exposed below a point immediately above the top of the areola; or
26 (ii) prosthetic genitalia, breasts, or buttocks; or
27 (b) sexual conduct.

(2)(6)(3) "Nude" means:

(a) entirely unclothed; or

(b) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing

any portion of the breast below the top of the areola of the breasts if the person is female or any portion of the genitals or buttocks.

~~(7) "OBSCENE" HAS THE SAME MEANING AS PROVIDED IN 45-8-201.~~

~~(3)(8)(4) "PRURIENT INTEREST" MEANS HAVING A TENDENCY TO EXCITE LUSTFUL THOUGHTS.~~

"PRURIENT INTEREST IN SEX" HAS THE SAME MEANING AS PROVIDED IN 45-8-205.

(5) "Public property" means any real property owned or leased, in whole or part, by the state or a political subdivision, as defined in 2-9-101, or held in the name of a political subdivision by a department, board, or authority of the state or a political subdivision.

~~(3)(4)(9) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that:~~

~~(a) provides for an audience of two or more individuals:~~

~~(i) live nude entertainment or live nude performances; or~~

~~(ii) a drag performance; and~~

~~(b) authorizes on-premises consumption of alcoholic beverages.~~

NEW SECTION. Section 2. Restrictions on ~~sexually oriented~~ adult-oriented businesses --
penalty. (1) ~~A sexually oriented~~ An adult-oriented business may not allow a person under 18 years of age to enter the premises of the business DURING A LIVE NUDE PERFORMANCE OR DRAG ~~an adult-oriented~~ PERFORMANCE.

(2) The owner, operator, manager, or employee of a sexually oriented business who is convicted of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first offense, not less than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent offenses be fined \$10,000 and, if applicable, the county or municipality shall revoke the business license held by the offender.

(3) [Sections 1 through 3] are applicable and uniform throughout the state and any political subdivisions.

- 2023

68th Legislature 2023

Drafter: Julianne Burkhardt, 406-444-4025

HB0359.003.002

1
2 NEW SECTION. Section 3. Drag WHERE ~~DRAG~~ adult-oriented performances ARE prohibited in
3 publicly funded libraries or schools. (1) A library that receives any form of funding from the state may not
4 allow a ~~drag-adult-oriented~~ performance ~~OR DRAG STORY HOUR~~ as defined in [section 1] on its premises during its
5 regular operating hours.
6 (2) A school, ~~AS DEFINED IN 20-6-501,~~ that receives any form of funding from the state may not
7 allow a ~~drag-an adult-oriented~~ performance ~~OR DRAG STORY HOUR~~ as defined in [section 1] on its premises
8 during school hours or at any school-sanctioned extracurricular activity.
9 ~~(3) A MUSEUM THAT RECEIVES ANY FORM OF FUNDING FROM THE STATE MAY NOT ALLOW A DRAG~~
10 ~~PERFORMANCE OR DRAG STORY HOUR AS DEFINED IN [SECTION 1] ON ITS PREMISES.~~
11 ~~(4) ANY FACILITY WHERE AT LEAST 10% OF ITS OPERATING BUDGET IS FUNDED BY THE STATE OR LOCAL~~
12 ~~GOVERNMENT OR MUNICIPALITY MAY NOT HOST A DRAG PERFORMANCE OR DRAG STORY HOUR AS DEFINED IN [SECTION~~
13 ~~1].~~
14 ~~(3) A DRAG PERFORMANCE IS PROHIBITED:~~
15 ~~(A) ON PUBLIC PROPERTY IN ANY LOCATION WHERE THE PERFORMANCE IS IN THE PRESENCE OF AN~~
16 ~~INDIVIDUAL UNDER THE AGE OF 18; AND~~
17 ~~(B) IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES ANY FORM OF FUNDING FROM THE STATE.~~
18 ~~(3) An adult-oriented performance is prohibited:~~
19 ~~(a) on public property in any location where the performance is in the presence of an individual~~
20 ~~under the age of 18; and~~
21 ~~(b) in a location owned by an entity that receives any form of funding from the state.~~
22 ~~(3)(4) A library, a school, or OR library or school personnel; A PUBLIC EMPLOYEE, OR AN ENTITY~~
23 ~~DESCRIBED IN SUBSECTION (3)(B) OR AN EMPLOYEE OF THE ENTITY, a public employee, or an entity described in~~
24 ~~subsection (3)(b) or an employee of the entity~~ convicted of violating the prohibition under this section shall be
25 fined \$5,000 and, if applicable, the board of public education shall initiate proceedings MUST BE INITIATED to
26 suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1 year. If an
27 offender's certificate has previously been suspended pursuant to this subsection (3) (4), the board of public

1 education shall initiate proceedings MUST BE INITIATED to permanently revoke the teacher, administrator, or
2 specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.
3

4 NEW SECTION. Section 4. Codification instruction. (1) [Sections 1 and 2] are intended to be
5 codified as an integral part of Title 45, chapter 8, and the provisions of Title 45, chapter 8, apply to [sections 1
6 and 2].

7 (2) [Section 3] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the
8 provisions of Title 20, chapter 7, part 1, apply to [section 3].
9

10 NEW SECTION. SECTION 5. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
11 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
12 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
13 APPLICATIONS.
14

15 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.
16

- END -